



## **FEDERAL RESERVE SYSTEM**

### **Agency information collection activities: Announcement of Board Approval under Delegated Authority and Submission to OMB**

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Regulation H (Reg H-3; OMB No. 7100-0196).

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC, 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17<sup>th</sup> Street, NW, Washington, DC 20503 or by fax to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s)

are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:**

*Report title:* Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Regulation H.

*Agency form number:* Reg H-3.

*OMB control number:* 7100-0196.

*Frequency:* Event-generated.

*Respondents:* State member banks.

*Estimated number of respondents:* State member banks (de novo): 1; state member banks with trust departments: 228; state member banks without trust departments: 601.

*Estimated average hours per response:* State member banks (de novo): recordkeeping, 40 hours. State member banks with trust departments: recordkeeping, 2 hours; disclosure, 16 hours. State member banks without trust departments: recordkeeping, 15 minutes; disclosure, 5 hours.

*Estimated annual burden hours:* State member banks (de novo): recordkeeping, 40 hours. State member banks with trust departments: recordkeeping, 12,768 hours; disclosure, 43,776 hours. State member banks without trust departments: recordkeeping, 4,207 hours; disclosure, 36,060 hours.

*General Description of Report:* These recordkeeping and disclosure requirements are pursuant to Sections 208.34(c), (d), and (g) of the Board's Regulation H, which require that state member banks effecting securities transactions for customers establish and maintain a system of records of these transactions, furnish confirmations of transactions to customers that disclose certain information, and establish written policies and procedures relating to securities trading. State member banks are required to maintain records created per these requirements for three years following a securities transaction. These requirements are necessary to protect the customer, to avoid or settle customer disputes, and to protect the institution against potential liability arising under the anti-fraud and insider trading provisions of the Securities Exchange Act of 1934 ("Securities Exchange Act").

*Legal authorization and confidentiality:* The Board has determined that the Regulation H requirements are authorized by Section 23 of the Securities Exchange Act, 15 U.S.C. 78w, which empowers the Board to make rules and regulations implementing those portions of the Securities Exchange Act for which it is responsible. The requirements of 12 CFR 208.34(c), (d), and (g) also are impliedly authorized by Section 9 of the Federal Reserve Act (12 U.S.C. 321-328a), which establishes the Board's supervisory authority with respect to the safety and soundness of state member banks. Accordingly, the Board is authorized to impose these recordkeeping, disclosure, and policy establishment requirements. The obligation of a state member bank to comply with the Regulation H requirements is mandatory, save for the limited exceptions set forth in 12 CFR 208.34(a).

Inasmuch as the Board does not collect or receive any information concerning securities transactions pursuant to these requirements, no issues of confidentiality normally will arise. If, however, these records were to come into the possession of the Board, they may be protected from disclosure pursuant to exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. 552(b)(4), under the standards set forth in National Parks & Conservation Ass’n v. Morton, 498 F.2d 765 (D.C. Cir. 1974), to the extent an institution can establish the potential for substantial competitive harm. They also may be subject to withholding under FOIA exemption 6, 5 U.S.C. 552(b)(6), should disclosure constitute an unwarranted invasion of personal privacy. Additionally, if such information were included in the work papers of System examiners or abstracted in System reports of examination, the information also may be protected under exemption 8 of FOIA, 5 U.S.C. 552(b)(8). Any withholding determination would be made on a case-by-case basis in response to a specific request for disclosure of the information.

*Current actions:* On November 27, 2017, the Board published a notice in the Federal Register (82 FR 56022) requesting public comment for 60 days on the extension, without revision, of the Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Regulation H (Reg H-3). The comment period for this notice expired on January 26, 2018. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, February 12, 2018.

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**Ann E. Misback,**

*Secretary of the Board.*

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